

LOUISIANA PUBLIC SERVICE COMMISSION
MINUTES FROM NOVEMBER 10, 2009
OPEN SESSION

MINUTES OF NOVEMBER 10, 2009 OPEN SESSION OF THE LOUISIANA PUBLIC SERVICE COMMISSION HELD IN BATON ROUGE, LOUISIANA. PRESENT WERE CHAIRMAN LAMBERT BOISSIERE, VICE CHAIR JIMMY FIELD, COMMISSIONERS FOSTER CAMPBELL, ERIC SKRMETTA AND CLYDE HOLLOWAY. ALSO PRESENT WAS EVE KAHAO GONZALEZ.

Open Session of November 10, 2009, convening at 9:38 A.M. and adjourning at 1:20 P.M., Natchez Room, 602 N. 5th Street, 1st Floor, Baton Rouge, Louisiana, with the above-named members of the Commission and Secretary Eve Kahao Gonzalez.

Ex. 1 Announcements

Commissioner Boissiere presented Joan Holley with a plaque recognizing her for her 34 years of service with the Public Service Commission. Deputy Undersecretary Von Meador also retired, however she was unable to attend the meeting and receive her plaque.

Staff Attorney Amanda Smith introduced our new Executive Counsel, Mr. Dennis Weber.

Commissioner Skrmetta introduced his new technical assistant, Samantha Goodwin.

Commissioner Holloway reminded everyone that the December B&E will be held in Lake Charles. There will be a reception the night before at Prien Lake Park.

Commissioner Campbell announced that he will be holding a meeting in Vidalia on November 17, 2009 regarding high speed internet. Commissioner Campbell stated that he would like all of the providers in the state to be present.

Commissioner Holloway commended Commissioner Campbell on his efforts to obtain high speed internet throughout Louisiana.

Commissioner Field directed Staff to obtain statistical data on the number of people in Louisiana who have access to high speed internet as of now.

Commissioner Skrmetta announced that he is holding his latest town hall meeting on November 18, 2009 at the Jefferson Parish Library.

Ex. 2 **T-31007** - Louisiana Public Service Commission vs United States Environmental Services, LLC (Meraux, Louisiana) In re: Alleged violation of Louisiana Revised Statutes Title 45:161 through 180.1 as amended, by operating Intrastate without L.P.S.C. authority on two counts; allegedly occurring on or about June 9, 2009 and June 10, 2009.

In re: Discussion and Possible Vote on Stipulated Agreement Pursuant to Rule 57.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to evoke its original and primary jurisdiction pursuant to Rule 57.

On motion of Commissioner Holloway, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the agreement entered into between Staff and the Carrier, wherein the Carrier agreed to plead guilty, and agreed to pay a fine of \$2,000.00, per count, with \$1,000.00, per count of the fine being suspended, conditioned on not committing any additional violations within 12 months of the date of the Order and further agreed to pay a citation fee of \$25.00, the unsuspended portion of the fine and the citation fee, for a total of \$2,025.00, to be paid within 15 days of the issuance of the Order herein.

Ex. 3 **T- 31112** - Louisiana Public Service Commission vs United States Environmental Services, LLC (Geismar, Louisiana) In re: Alleged violation of Louisiana Revised Statutes Title 45:161 through 180.1 as amended, by operating Intrastate without L.P.S.C. authority on one count; allegedly

occurring on or about December 19, 2008.

In re: Discussion and Possible Vote on Stipulated Agreement Pursuant to Rule 57.

On motion of Commissioner Skrmetta, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to evoke its original and primary jurisdiction pursuant to Rule 57.

On motion of Commissioner Holloway, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the agreement entered into between Staff and the Carrier, wherein the Carrier agreed to plead guilty, and agreed to pay a fine of \$2,000.00, per count, with \$1,000.00, per count of the fine being suspended, conditioned on not committing any additional violations within 12 months of the date of the Order and further agreed to pay a citation fee of \$25.00, the unsuspended portion of the fine and the citation fee, for a total of \$1,025.00, to be paid within 15 days of the issuance of the Order herein.

Ex. 4

T- 31114 - Louisiana Public Service Commission vs Deep South Vacuum Service, LLC (Broussard, Louisiana) In re: Alleged violation of Louisiana Revised Statutes Title 45:161 through 180.1 as amended, by operating Intrastate without L.P.S.C. authority on one count; allegedly occurring on or about December 16, 2008.

In re: Discussion and Possible Vote on Stipulated Agreement Pursuant to Rule 57.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to evoke its original and primary jurisdiction pursuant to Rule 57.

On motion of Commissioner Holloway, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the agreement entered into between Staff and the Carrier, wherein the Carrier agreed to plead guilty, and agreed to pay a fine of \$2,000.00, per count, with \$1,000.00, per count of the fine being suspended, conditioned on not committing any additional violations within 12 months of the date of the Order and further agreed to pay a citation fee of \$25.00, the unsuspended portion of the fine and the citation fee, for a total of \$1,025.00, to be paid within 15 days of the issuance of the Order herein.

Ex. 5

T- 31117 - Louisiana Public Service Commission vs Vital Oilwell Services, LLC (Vidalia, Louisiana) In re: Alleged violation of Louisiana Revised Statutes Title 45:161 through 180.1 as amended, by operating Intrastate without L.P.S.C. authority on eight counts; allegedly occurring on or about December 1, 2008 through December 5, 2008.

In re: Discussion and Possible Vote on Stipulated Agreement Pursuant to Rule 57.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to evoke its original and primary jurisdiction pursuant to Rule 57.

On motion of Commissioner Holloway, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the agreement entered into between Staff and the Carrier, wherein the Carrier agreed to plead guilty, and agreed to pay a fine of \$2,000.00, per count, with \$1,000.00, per count of the fine being suspended, conditioned on not committing any additional violations within 12 months of the date of the Order and further agreed to pay a citation fee of \$25.00, the unsuspended portion of the fine and the citation fee, for a total of \$8,025.00, to be paid within 15 days of the issuance of the Order herein.

Ex. 6

T- 31118 - Louisiana Public Service Commission vs EFR Transport, LLC (Laurel, Mississippi) In re: Alleged violation of Louisiana Revised Statutes Title 45:161 through 180.1 as amended, by operating Intrastate without L.P.S.C. authority on two counts; allegedly occurring on or about December 4, 2008 through December 5, 2008.

In re: Discussion and Possible Vote on Stipulated Agreement Pursuant to Rule 57.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to evoke its original and primary jurisdiction pursuant to Rule 57.

On motion of Commissioner Holloway, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the agreement entered into between Staff and the Carrier, wherein the Carrier agreed to plead guilty, and agreed to pay a fine of \$2,000.00, per count, with \$1,000.00, per count of the fine being suspended, conditioned on not committing any additional violations within 12 months of the date of the Order and further agreed to pay a citation fee of \$25.00, the unsuspended portion of the fine and the citation fee, for a total of \$2,025.00, to be paid within 15 days of the issuance of the Order herein.

Ex. 7 **T-30933** - T.J.'s Mighty Movers LLC (Bossier City, LA), ex parte. In Re: Application to amend Tariff (household goods) for LPSC No. 7254 by revising the existing tariff, and increasing various rates.

In re: Discussion and Possible Vote on Stipulated Agreement Pursuant to Rule 57.

PASSED

Ex. 8 **T-30917** - Louisiana Public Service Commission vs Charles Jacob dba Jake's (Boutte, Louisiana) In re: Alleged violation of Louisiana Revised Statutes Title 45:163.1 through 194 as amended, and General Order dated June 19, 2001 while operating under LPSC authority 7386, for incomplete tow invoice and exceeding state prescribed rates allegedly having occurred on or about January 15, 2009.

On motion of Commissioner Boissiere, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the ALJ Recommendation and find Charles Jacob d/b/a Jake's guilty of violating Louisiana Revised Statutes Title 45:163.1 through 194 as amended, and General Order dated June 19, 2001 and October 2, 2008 while operating under LPSC authority 7386, for incomplete tow invoice and exceeding state prescribed rates, the tow allegedly having occurred on or about January 15, 2009 and the invoice issued on or about January 26, 2009. It was further ordered that a fine in the amount of \$500 be imposed, with the full amount suspended pending no further violations within 12 months of the Order. It was also ordered that a refund in the amount of \$93.74 be issued to the customer Tomas Perez Chaverro and proof of such refund provided to the Commission within fifteen (15) days of the date of issuance of the Order.

Ex. 9 **T-30918** - Louisiana Public Service Commission vs Charles Jacob dba Jake's (Boutte, Louisiana) In re: Alleged violation of Louisiana Revised Statutes Title 45:163.1 through 194 as amended, and General Order dated June 19, 2001 while operating under LPSC authority 7386, for incomplete tow invoice and exceeding state prescribed rates allegedly having occurred on or about January 15, 2009.

On motion of Commissioner Boissiere, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the ALJ Recommendation and find Charles Jacob d/b/a Jake's guilty of violating Louisiana Revised Statutes Title 45:163.1 through 194 as amended, and General Order dated June 19, 2001 and October 2, 2008 while operating under LPSC authority 7386, for an incomplete tow invoice and exceeding state prescribed rates allegedly having occurred on or about January 15, 2009. It was further ordered that a fine in the amount of \$500 be imposed, with the full amount suspended pending no further violations within 12 months of the Order. It was also ordered that a refund in the amount of \$271.41 be issued to the customer, JMP General Contractors Inc., and proof of such refund provided to the Commission within fifteen (15) days of the date of issuance of the Order.

Ex. 10 **T-30919** - Louisiana Public Service Commission vs Charles Jacob dba Jake's (Boutte, Louisiana) In re: Alleged violation of Louisiana Revised Statutes Title 45:163.1 through 194 as amended, and General Order dated June 19, 2001 while operating under LPSC authority 7386, for incomplete tow invoice and exceeding state prescribed rates allegedly having occurred on or about January 15, 2009.

On motion of Commissioner Field, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to accept the ALJ Recommendation and find Charles Jacob d/b/a Jake's guilty of violating Louisiana Revised Statutes Title 45:163.1 through 194 as amended, and General Order dated June 19, 2001 and October 2, 2008 while operating under LPSC authority 7386, for incomplete tow invoice and exceeding state prescribed rates, the tow allegedly having occurred on or about January 15, 2009 and the invoice issued on or about January 26, 2009. It was further ordered that a fine in the amount of \$500 be imposed, with the full amount suspended pending no further violations within 12 months of the Order. It was also ordered that a refund in the amount of \$206.01 be issued to the Customer, Rae Ann Pelligrini, and proof of such refund provided to the Commission within fifteen (15) days of the date of issuance of the Order.

- Ex. 11 **T-30920** - Louisiana Public Service Commission vs Charles Jacob dba Jake's (Boutte, Louisiana) In re: Alleged violation of Louisiana Revised Statutes Title 45:163.1 through 194 as amended, and General Order dated June 19, 2001 while operating under LPSC authority 7386, for incomplete tow invoice and exceeding state prescribed rates allegedly having occurred on or about November 24, 2008.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the ALJ Recommendation and find Charles Jacob d/b/a Jake's guilty of violating Louisiana Revised Statutes Title 45:163.1 through 194 as amended, and General Order dated June 19, 2001 and October 2, 2008 while operating under LPSC authority 7386, for incomplete tow invoice and exceeding state prescribed rates allegedly having occurred on or about November 24, 2008. It was further ordered that a fine in the amount of \$500 be imposed upon Charles Jacob d/b/a Jake's for its violation, which fine must be paid to the Commission within fifteen (15) days of the date of issuance of the Order. It was also ordered that a refund in the amount of \$584.02 be issued to the customer, Mary Jane Basse, and proof of such refund is to be provided to the Commission within fifteen (15) days of the date of issuance of the Order.

- Ex. 12 **T-30921** - Louisiana Public Service Commission vs Renae G. Stanford, Inc. D/B/A Stanford Truck Line (Iota, Louisiana) In re: Alleged violation of Louisiana Revised Statutes Title 45, 163.1 through 194, as amended, by operating Intrastate without L.P.S.C. authority on one hundred and eleven counts; allegedly occurring on or between August 1, 2008 through August 29, 2008.

Commissioner Field made a motion to accept the ALJ Recommendation and find Renae G. Stanford, d/b/a Stanford Truck Line, guilty of violating La. R.S. 45:164 by operating as a common carrier of waste without Louisiana Public Service Commission authority on ninety-seven (97) occasions between August 1, 2008 and August 28, 2008. It is further ordered that a fine of \$19,400 be imposed upon Renae G. Stanford, d/b/a Stanford Truck Line for its violation of La. R.S. 45:164, which fine should be paid to the Commission within fifteen (15) days of the issuance of the order. Commissioner Campbell seconded that motion.

Commissioner Skrmetta offered a substitute motion to increase the fine to \$29,400. Commissioner Field seconded this motion. However, Commissioners Campbell and Holloway opposed. Commissioner Skrmetta subsequently withdrew his motion. Thereafter, the Commission voted on Commissioner Field's original motion and it was unanimously adopted.

- Ex. 13 **T-30922** - Louisiana Public Service Commission vs Savant Transportation Acquisition Co., LLC (Estherwood, Louisiana). In re: Alleged violation of Louisiana Revised Statutes Title 45, 163.1 through 194, as amended, by operating Intrastate without L.P.S.C. authority on one count; allegedly occurring on or about August 16, 2008.

Commissioner Field offered a motion to accept the ALJ Recommendation, but increase the fine to \$250.

Commissioner Boissiere offered a substitute motion. On motion of Commissioner Boissiere, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the ALJ Recommendation and find Savant Transportation Acquisition Co., LLC of Estherwood, Louisiana guilty of violating La. R.S. 45:164 on August 16, 2008 by operating outside of its authority, and therefore without Louisiana Public Service Commission authority. It

was further ordered that a fine in the amount of \$2,000, with \$1,000 being suspended, conditioned on not committing any additional violations within 12 months of the date of the Order be imposed, along with a citation fee of \$25.00, for a total of \$1,025.00, to be paid within 15 days of the issuance of the Order herein.

- Ex. 14 **T-31027** - Louisiana Public Service Commission vs Florida Parishes Environmental Management, LLC, (Ponchatoula, Louisiana) In re: Cancellation of Common Carrier Certificate Number 6298-A for failure to file an Annual Report for 2008 and/or pay a late filing fee of FIVE HUNDRED DOLLARS (\$500.00) and a citation fee of TWENTY FIVE DOLLARS (\$25.00) as required by General Order 2 dated July 21, 1921 and General Order dated April 23, 2001

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the ALJ Recommendation and 1) Cancel Common Carrier Certificate Number 6298-A, previously issued to Florida Parishes Environmental Management, LLC, due to the Carrier's failure to file an annual report for the calendar year of 2008; and 2) Require Florida Parishes Environmental Management, LLC to pay the \$500 late filing fee and \$25 citation fee in the event it applies to the Commission for reinstatement of its certificate after cancellation.

- Ex. 15 **R-30579** – Louisiana Public Service Commission, ex parte. In re: Discussion on amending General Order dated March 25, 2003, with regards to nonconsensual towing and recovery rates, including but not limited to the 15% surcharge on equipment rental and labor subcontracted for, as provided for in Attachment "A", Section E 4. *In addition, the Commission will review and assess the entire General Order and compare the economic studies performed in 1999 and the economic study recently completed and submitted to the Commission on July 10, 2008, by the Towing & Recovery Professionals of Louisiana, Inc., to review all rates, including but not limited to all hourly rates.*

In re: Discussion and possible vote on proposed order.

Last Month's Ex. 7

After discussions with Fred Burkett and Fran Tigner of the Towing & Recovery Professionals of Louisiana, Inc., the Commission decided to pass this item to next month.

PASSED

- Ex. 16 **U-30691** - Water & Wastewater Utilities, Inc. (Scott, LA), ex parte. In re: Application for a water and sewerage services rates and fees increase and approval of a fuel surcharge throughout its service territory in Bossier, Lafayette, Sabine and St. Landry Parishes.

Stipulated Agreement

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept Staff Recommendation and approve the Stipulated Agreement as filed into the record, with two modifications: 1) The Tap-in Fees for ¾" be increased to \$600 instead of the recommended \$700; and 2) The Tap-in Fees for 1" be increased to \$800 instead of the recommended \$1,000.

- Ex. 17 **U-31174** – Entergy Gulf States Louisiana, L.L.C. and Entergy Louisiana, LLC, ex parte. In re: Application to Recover the Cost of Emissions Allowances Related to Compliance with the Clean Air Interstate Rule for the Period of January through May 2009.

In re: Request for Approval to Issue RFP for Outside Consultant.

On motion of Commissioner Skrmetta, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the issuance of an RFP for an outside consultant in this matter.

- Ex. 18 **U-31147** - Entergy Gulf States, Louisiana, L.L.C. and Entergy Louisiana, LLC, ex parte. In re: Joint Application of Entergy Gulf States Louisiana, L.L.C. ("EGSL") and Entergy Louisiana,

LLC (“ELL”) for authorization to participate in an MSS-4 contract for the purchase of electric power from EAI Wholesale Baseload Capacity Resources (the “EAI WBL”) for 2010 and for timely treatment.

In re: Discussion and Possible Vote Regarding Unopposed Application for Purchase Power Agreements.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve EGSL’s application adopting Staff’s recommendations as set forth in the testimony filed into the record on October 26, 2009.

Ex. 19 **U-31099** - Entergy Gulf States Louisiana, L.L.C., ex parte. In re: Application to flow through to retail rates the retail effects of credits and payments resulting from FERC Opinions Nos. 468 and 468-A and related orders.

In re: Discussion and possible vote to hire outside counsel.

Last Month’s Ex. 12

PULLED

Ex. 20 Report from utility companies on their advertising practices, including whether ratepayers are paying for the advertisement.

The following representatives reported on their respective company’s advertising practices: Charlie Kaszuba on behalf of SWEPCO; Louis Lambert on behalf of DEMCO; Karen Freese on behalf of EGSL and ELL; and John Shirley on behalf of CLECO and CenterPoint.

Ex. 21 Discussion and possible vote to select an LPSC representative and on proposed bylaws for the ERSC.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to join the ERSC and adopt the bylaws as proposed with one modification in Article 8 by Commissioner Skrmetta.

On motion of Commissioner Boissiere, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to nominate Commissioner Field as the LPSC representative and hereby grant him the authority to vote on substantive issues on behalf of the LPSC subject to the Commission’s prior approval or after-the-fact ratification.

Ex. 22 Clarification regarding Swearing In Rule.

Last Month’s Ex. 19.

PASSED

Ex. 23 Discussion and possible vote regarding participation of in-house staff attorneys in cases involving outside counsel and consultants.

At the request of Commissioner Skrmetta.

Last Month’s Ex. 28

PASSED

Ex. 24 Discussion and possible vote regarding creation of a mediation program by the LPSC.

At the request of Commissioner Skrmetta.

Last Month's Ex. 29

PASSED

- Ex. 25 1) Reports
 2) Resolutions
 3) Discussions

- Ex. 26 Presentation by Commissioner of Agriculture Mike Strain on biomass and renewables.

At the request of Commissioners Field and Skrmetta.

Commissioner of Agriculture Mike Strain gave a presentation on biomass and renewables.

- Ex. 27 **U-30874** - Water Treatment & Controls Company d/b/a Peoples Water Service Company of Bastrop (Bastrop, Louisiana), ex parte. In re: Application for an increase in rates for water and water service in the City of Bastrop and its environs.

In re: Discussion and Possible Vote on Uncontested Proposed Stipulated Agreement.

At the request of Commissioner Campbell.

PASSED

- Ex. 28 Presentation by the Alliance for Affordable Energy: Feed-In-Tariffs by Craig Morris.

At the Request of Commissioner Boissiere.

Craig Morris gave a presentation on Feed-In-Tariffs.

- Ex. 29 Entergy Louisiana, LLC, ex parte Test Year 2008 Formula Rate Plan filing.

In re: Discussion and Possible Vote to Hire Outside Consultant.

At the request of Commissioner Campbell.

On motion of Commissioner Campbell, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and retain the consulting firm of Exeter Associates for the three-year term of the FRP (2008-2010) for a budget of \$145,000 for professional services and travel expenses of \$15,000 for a total budget of \$160,000.

- Ex. 30 Entergy Gulf States Louisiana, LLC, ex parte Test Year 2008 Formula Rate Plan filing.

In re: Discussion and Possible Vote to Hire Outside Consultant.

At the request of Commissioner Campbell.

On motion of Commissioner Field, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the Staff Recommendation and retain the consulting firm of Henderson Ridge for the three-year term of the FRP (2008-2010) for a budget of \$143,100 for professional services and travel expenses of \$14,310 for a total budget of \$157,410.

On motion of Commissioner Skrmetta, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to adjourn the meeting.

MEETING ADJOURNED

The next Business and Executive Session will be held December 9, 2009 at 9:00 a.m. in Lake Charles, Louisiana.